

1 **SENATE FLOOR VERSION**

2 February 8, 2012

3 As Amended

4 SENATE BILL NO. 1019

By: Garrison of the Senate

and

McDaniel (Jeannie) of the
House

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8 **[revenue and taxation - filing a claim against**
9 **income tax refunds - effective date]**

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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

12 SECTION 1. AMENDATORY 68 O.S. 2011, Section 205.2, is
13 amended to read as follows:

14 Section 205.2. A. A state agency, a municipal court ~~or~~, a
15 district court or a public housing authority operating pursuant to
16 Section 1062 of Title 63 of the Oklahoma Statutes seeking to collect
17 a debt, unpaid fines and cost or final judgment of at least Fifty
18 Dollars (\$50.00) from an individual who has filed a state income tax
19 return may file a claim with the Oklahoma Tax Commission requesting
20 that the amount owed to the agency, a municipal court ~~or~~, a district
21 court or a public housing authority operating pursuant to Section
22 1062 of Title 63 of the Oklahoma Statutes, be deducted from any
23 state income tax refund due to that individual. The claim shall be
24 filed electronically in a form prescribed by the Tax Commission and

1 shall contain information necessary to identify the person owing the
2 debt, including the full name and Social Security number of the
3 debtor.

4 1. Upon receiving a claim from a state agency, the municipal
5 court ~~or~~, a district court or a public housing authority operating
6 pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, the
7 Tax Commission shall deduct the claim amount, plus collection
8 expenses as provided in this section, from the tax refund due to the
9 debtor and transfer the amount to the municipal court, the district
10 court ~~or~~, the agency or the public housing authority. Provided, the
11 Tax Commission need not report available funds of less than Fifty
12 Dollars (\$50.00).

13 2. The state agency, the municipal court ~~or the~~, a district
14 court or a public housing authority operating pursuant to Section
15 1062 of Title 63 of the Oklahoma Statutes, shall send notice to the
16 debtor by regular mail at the last-known address of the debtor as
17 shown by the records of the Tax Commission when seeking to collect a
18 debt not reduced to final judgment. The state agency, the municipal
19 court ~~or the~~, a district court or a public housing authority
20 operating pursuant to Section 1062 of Title 63 of the Oklahoma
21 Statutes, shall send notice to the judgment debtor or municipal
22 court defendant by first class mail at the last-known address of the
23 judgment debtor or municipal court defendant as shown by the records

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1 of the Tax Commission when seeking to collect a final judgment or
2 unpaid municipal fines and cost. The notice shall state:

3 a. that a claim has been filed with the Tax Commission
4 for any portion of the tax refund due to the debtor or
5 municipal court defendant which would satisfy the
6 debt, unpaid municipal fines and cost, or final
7 judgment in full or in part,

8 b. the basis for the claim,

9 c. that the Tax Commission has deducted an amount from
10 the refund and remitted it to such state agency,
11 municipal court ~~or~~, district court or public housing
12 authority,

13 d. that the debtor or municipal court defendant has the
14 right to contest the claim by sending a written
15 request to the state agency, the municipal court or
16 the district court for a hearing to protest the claim,
17 and if the debtor or municipal court defendant fails
18 to apply for a hearing within sixty (60) days after
19 the date of the mailing of the notice, the debtor or
20 municipal court defendant shall be deemed to have
21 waived his or her opportunity to contest the claim.

22 Provided, if the claim was filed by the Department of
23 Human Services, the notice shall state that the debtor
24 must contest the claim by sending a written request to

1 the Department within thirty (30) days after the date
2 of the mailing of the notice,

3 e. that a collection expense of five percent (5%) of the
4 gross proceeds owed to the state agency, municipal
5 court or district court has been charged to the debtor
6 or municipal court defendant and withheld from the
7 refund.

8 3. If the state agency, municipal court ~~or~~, district court or
9 public housing authority determines that a refund is due to the
10 taxpayer, the state agency, municipal court ~~or~~, district court or
11 public housing agency shall reimburse the amount claimed plus the
12 five-percent collection expense to the taxpayer. The state agency,
13 municipal court ~~or~~, district court or public housing agency may
14 request reimbursement of the two-percent collection expense retained
15 by the Tax Commission. Such request must be made within ninety (90)
16 days of reimbursement to the taxpayer. If timely requested, the Tax
17 Commission shall make such reimbursement to the state agency,
18 municipal court ~~or~~, district court or public housing agency within
19 ninety (90) days of the request.

20 4. In the case of a joint return, the notice shall state:

21 a. the name of any taxpayer named in the return against
22 whom no debt, no unpaid fines and cost, or final
23 judgment is claimed,
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- 1 b. the fact that a debt, unpaid municipal fines and cost,
2 or final judgment is not claimed against the taxpayer,
3 c. the fact that the taxpayer is entitled to receive a
4 refund if it is due regardless of the debt, municipal
5 fines and cost, or final judgment asserted against the
6 debtor or municipal court defendant,
7 d. that in order to obtain the refund due, the taxpayer
8 must apply, in writing, for a hearing with the
9 municipal court, district court, or the agency named
10 in the notice within sixty (60) days after the date of
11 the mailing of the notice. Provided, if the claim was
12 filed by the Department of Human Services, the notice
13 shall state that the taxpayer must apply, in writing,
14 for a hearing with the Department within thirty (30)
15 days after the date of the mailing of the notice, and
16 e. if the taxpayer against whom no debt, no unpaid
17 municipal fines and cost, or final judgment is claimed
18 fails to apply in writing for a hearing within sixty
19 (60) days after the mailing of the notice, the
20 taxpayer shall have waived his or her right to a
21 refund. Provided, if the claim was filed by the
22 Department of Human Services, the notice shall state
23 that if the taxpayer fails to apply in writing for a
24 hearing with the Department within thirty (30) days

1 after the date of the mailing of the notice, the
2 taxpayer shall have waived his or her right to a
3 refund.

4 B. If the municipal court, district court ~~or~~, agency or public
5 housing authority operating pursuant to Section 1062 of Title 63 of
6 the Oklahoma Statutes asserting the claim receives a written request
7 for a hearing from the debtor or taxpayer against whom no debt, no
8 municipal fines and cost, or final judgment is claimed, the agency,
9 the municipal court ~~or~~, the district court or public housing
10 authority operating pursuant to Section 1062 of Title 63 of the
11 Oklahoma Statutes, shall grant a hearing according to the provisions
12 of the Administrative Procedures Act, ~~Section 250 et seq. of Title~~
13 ~~75 of the Oklahoma Statutes~~. It shall be determined at the hearing
14 whether the claimed sum is correct or whether an adjustment to the
15 claim shall be made. Pending final determination at the hearing of
16 the validity of the debt, unpaid fines and cost, or final judgment
17 asserted by the municipal court, the district court ~~or the~~, agency
18 or public housing authority operating pursuant to Section 1062 of
19 Title 63 of the Oklahoma Statutes, no action shall be taken in
20 furtherance of the collection of the debt, unpaid fines and cost, or
21 final judgment. Appeals from actions taken at the hearing shall be
22 in accordance with the provisions of the Administrative Procedures
23 Act.

1 C. Upon final determination at a hearing, as provided for in
2 subsection B of this section, of the amount of the debt, unpaid
3 fines and cost, or final judgment, or upon failure of the debtor or
4 taxpayer against whom no debt, no unpaid fines and cost, or final
5 judgment is claimed to request such a hearing, the municipal court,
6 the district court ~~or the~~, agency or public housing authority
7 operating pursuant to Section 1062 of Title 63 of the Oklahoma
8 Statutes, shall apply the amount of the claim to the debt owed. Any
9 amounts held by the municipal court, district court, ~~or~~ agency or
10 public housing authority operating pursuant to Section 1062 of Title
11 63 of the Oklahoma Statutes in excess of the final determination of
12 the debt and collection expense, shall be refunded by the municipal
13 court, district court, ~~or~~ agency or public housing authority
14 operating pursuant to Section 1062 of Title 63 of the Oklahoma
15 Statutes to the taxpayer. However, if the tax refund due is
16 inadequate to pay the collection expense and debt, unpaid fines and
17 cost, or final judgment, the balance due the state agency, the
18 municipal court, ~~or~~ the district court or public housing authority
19 operating pursuant to Section 1062 of Title 63 of the Oklahoma
20 Statutes, shall be a continuing debt or final judgment until paid in
21 full.

22 D. Upon receipt of a claim as provided in subsection A of this
23 section, the Tax Commission shall:
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1 1. Deduct from the refund five percent (5%) of the gross
2 proceeds owed to the state agency, the municipal court ~~or~~, district
3 court or public housing authority operating pursuant to Section 1062
4 of Title 63 of the Oklahoma Statutes, and distribute it by retaining
5 two percent (2%) and transferring three percent (3%) to the
6 municipal court, the district court ~~or~~, the state agency or public
7 housing authority operating pursuant to Section 1062 of Title 63 of
8 the Oklahoma Statutes, as an expense of collection. The two percent
9 (2%) retained by the Tax Commission shall be deposited in the
10 Oklahoma Tax Commission Fund;

11 2. Transfer the amount of the claimed debt, unpaid fines and
12 cost, or final judgment or so much thereof as is available to the
13 state agency, municipal court ~~or~~, the district court or public
14 housing authority operating pursuant to Section 1062 of Title 63 of
15 the Oklahoma Statutes;

16 3. Notify the debtor in writing as to how the refund was
17 applied; and

18 4. Refund to the debtor any balance remaining after deducting
19 the collection expense and debt, unpaid fines and cost, or final
20 judgment.

21 E. The Tax Commission shall deduct from any state tax refund
22 due to a taxpayer the amount of delinquent state tax and penalty and
23 interest thereon, which such taxpayer owes pursuant to any state tax
24 law prior to payment of such refund.

1 F. The Tax Commission shall have first priority over all other
2 agencies, municipal courts ~~or~~, district courts or public housing
3 authority operating pursuant to Section 1062 of Title 63 of the
4 Oklahoma Statutes, when the Tax Commission is collecting a debt,
5 municipal court fines and cost, or final judgment pursuant to the
6 provisions of this section. Priority in multiple claims by other
7 agencies, authorities, municipal courts or district courts pursuant
8 to the provisions of this section shall be in the order in time, in
9 which the Tax Commission receives the claim from the agencies,
10 authorities, municipal courts and district courts required by the
11 provisions of subsection A of this section.

12 G. The Tax Commission shall prescribe or approve forms and
13 promulgate rules and regulations for implementing the provisions of
14 this section.

15 H. The information obtained by an agency, authority, municipal
16 court or by the district court from the Tax Commission pursuant to
17 the provisions of this section shall be used only to aid in
18 collection of the debt, unpaid fines and cost, or final judgment
19 owed to the agency, authority, municipal court or a district court.
20 Disclosure of the information for any other purpose shall constitute
21 a misdemeanor. Any agency, authority or court employee or person
22 convicted of violating this provision shall be subject to a fine not
23 exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the
24 county jail for a term not exceeding one (1) year, or both ~~said~~ fine

1 and imprisonment and, if still employed by the agency, authority or
2 the courts, shall be dismissed from employment.

3 I. The Tax Commission may employ the procedures provided by
4 this section in order to collect a debt owed to the Internal Revenue
5 Service if the Internal Revenue Service requires such procedure as a
6 condition to providing information to the Commission concerning
7 federal income tax.

8 J. The provisions of this section shall not apply to claims
9 filed under the provisions of Section 2906 or Section 5011 of this
10 title or to any debt owed to a state agency for health care or
11 medical services.

12 SECTION 2. This act shall become effective November 1, 2012.

13 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-7-12 - DO PASS,
14 As Amended.
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